

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

NIKOLAS LOREN PELLANT,

Defendant.

CR 23-38-M-DWM-3

ORDER

On November 30, 2023, United States Magistrate Judge Kathleen L. DeSoto entered Findings & Recommendation Concerning Plea with respect to the disposition of the change of plea hearing for Nikolas Loren Pellant held on the same day. (Doc. 75.) Pellant is charged with one count of conspiracy to distribute controlled substances, in violation of 21 U.S.C. § 846 (Count I) and one count of possession with intent to distribute controlled substances, in violation of 21 U.S.C. § 841(a)(1) (Count II). (Doc. 1.) Judge DeSoto recommends that this Court accept Pellant's guilty plea as to Count II after Pellant appeared before her pursuant to Federal Rule of Criminal Procedure 11. Judge DeSoto further recommends that Count I of the Indictment be dismissed.

Neither party has filed objections. Failure to object waives the right to review. Fed. R. Crim. P. 59(b)(2). But consistent with the Court's "full authority"

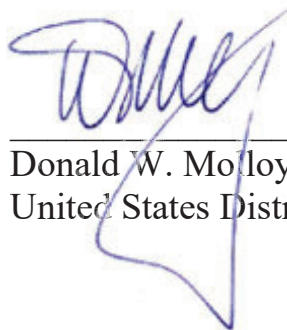
to review the Findings and Recommendations under any standard it deems appropriate, *Thomas v. Arn*, 474 U.S. 140, 154 (1958), the Court reviews for clear error. Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000). Finding no clear error in Judge DeSoto’s Findings and Recommendation, they are adopted in full, including the recommendation to defer acceptance of the Plea Agreement until sentencing when the Court will have reviewed the Plea Agreement and Presentence Investigation Report. (See Doc. 75.)

Accordingly, IT IS ORDERED that Judge DeSoto’s Findings and Recommendation (Doc. 75) is ADOPTED in full.

IT IS FURTHER ORDERED that Nikolas Loren Pellant’s motion to change plea (Doc. 57) is GRANTED.

IT IS FURTHER ORDERED that Nikolas Loren Pellant is adjudged guilty as charged in Count II of the Indictment.

DATED this 15th day of December, 2023.



Donald W. Molloy, District Judge
United States District Court